

Applicant: Swantner, et al.
Serial No.: 10/759,637
Filed: 01/16/2004
For: RIGHT ANGLED CONNECTOR

Art Unit: 2833
Examiner: Chung Trans, Xuong My

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REMARKS/ARGUMENTS

The rejection of Claims 1 and 2 and 4-6 under 35 U.S.C. §102(a) as being anticipated by Sheesley, et al. 4,666,231 (hereinafter, '231) is respectfully traversed and reconsideration thereof is requested.

"Factual determination of anticipation requires disclosure in single reference of every element of claimed invention, and examiner must identify wherein each and every facet of claimed invention is disclosed in applied reference." Ex parte Levy: 17 USPQ2d; PTO Bd of Pat. App. and Int.; October 16, 1990

Claim 1, which has been amended to include previous Claim 6, requires an electrically conductive member 12 having at least one leg 19 extending in a direction transverse to the body's longitudinal axis 13. This feature is completely lacking in the '231 reference. The Examiner refers to body member 7 and contact 12 of the '231 reference (... "an electrically conductive member (7-12)"), Office Action, paragraph 4, as showing this feature; however, that is incorrect. The contact 12 of '231 is the counterpart of applicants' pin 22 and is not a part of the body 7 of '231. Therefore, '231 does not show a body including at least one leg extending in a transverse direction to the longitudinal axis as required by the instant amended claim 1. The body 7 of '231 consists only of a cylindrical member extending in a single direction only and, therefore, the reference fails as an anticipation under 35 U.S.C §102(a).

Since Claims 2, 4 and 5 depend directly from Claim 1 the rejection of these claims under 35 U.S.C. §102(a) is also in error and its withdrawal is requested.

The rejection of Claim 5 is not understood. "As per claim 5, Alf discloses..." What is "Alf"? If this is an additional reference it is not of record in this application.

The rejection of Claim 3 under 35 U.S.C. 103(a) as being unpatentable over Sheesley is respectfully traversed and reconsideration is requested.

The Examiner recognizes that the reference is silent as to the claimed feature of a compressible leg but takes the position that this feature would have been obvious to one skilled in the art at the time the invention was made. This is an assumption on the part of the Examiner and assumptions do not take the place of the prior art knowledge and therefore, fails in establishing a *prima facie* case of obviousness.

"[Applicant] argues that the examiner has not established a *prima facie* case of obviousness and that the examiner's assumptions do not constitute the disclosure of the prior art. We agree." (Emphasis in original). In re Rijckaert; 28 USPQ2d 1955; Fed. Cir.; November 23, 1993.

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Further,

"In determining obviousness of claimed apparatus under 35 U.S.C. 103, it is improper to modify reference in light of applicant's own disclosure." Ex parte Camarata; 151 USPQ 739; PO Bd of App; Mar. 1 and May 17, 1966

In the instant case the Examiner has recognized the '231 patent does not have the claimed feature of the compressible leg and, therefore, the rejection is improper and its withdrawal is requested.

Accordingly, in view of this amendment and these remarks, this application is condition for immediate allowance and such action is earnestly solicited.

Respectfully submitted,



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